

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

RICHARD JORDAN and RICKY CHASE

Plaintiffs

**THOMAS EDWIN LODEN, JR.,
ROGER ERIC THORSON, and
ROBERT SIMON, JR.**

Intervenors

vs.

No. 3:15-cv-00295-HTW-LRA

**PELICIA HALL, Commissioner,
Mississippi Department of Corrections, in
her Official Capacity; EARNEST LEE
Superintendent, Mississippi State Penitentiary,
in his Official Capacity; THE MISSISSIPPI
STATE EXECUTIONER, in his Official
Capacity; an UNKNOWN EXECUTIONERS,
in their Official Capacities**

Defendants

DEFENDANTS' MOTION FOR PROTECTIVE ORDER

COME NOW Defendants Pelicia Hall,¹ in her official capacity as Commissioner of the Mississippi Department of Corrections (“MDOC”), Earnest Lee, the Superintendent of the Mississippi State Penitentiary, and the Mississippi State Executioner, and respectfully submit their Motion for Protective Order.

1. For the reasons described in Defendants’ Memorandum of Authorities which is being filed contemporaneously herewith, this Court should enter a protective order forbidding any and all disclosure or discovery of (1) the identities of MDOC’s lethal injection drug suppliers, or any information, document, or tangible thing that could be used to identify such suppliers; and (2) the

¹ Pursuant to Fed. R. Civ. P. 25(d), Pelicia Hall was automatically substituted as a Defendant when she succeeded Marshall Fisher as the Commissioner of the Mississippi Department of Corrections.

identities of any person who have played, or in the future may play, any role in the procurement, purchase, custody, transportation, and/or storage of lethal injections drugs, or any information, document, or tangible thing that could be used to identify such persons.

In support of their Motion, Defendants rely in part on the following, which are attached hereto as exhibits:

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| Exhibit A | Declaration of Supplier 1; |
| Exhibit B | Defendants' Responses and Objections to Plaintiffs' Second Set of Interrogatories; |
| Exhibit C | Defendants' Responses and Objections to Plaintiffs' Second Set of Requests for Production of Documents; |
| Exhibit D | Defendants' Second Supplemental Privilege Log; |
| Exhibit E | Defendants' Responses and Objections to Plaintiffs' First Set of Interrogatories; |
| Exhibit F | Defendants' Responses and Objections to Plaintiffs' Second Set of Requests for Production of Documents; |
| Exhibit G | Plaintiffs' July 10, 2017 Good Faith Letter; |
| Exhibit H | Defendants' July 19, 2017 Email in Response to Plaintiffs' Good Faith Letter; |
| Exhibit I | Good Faith Certificate Executed by Plaintiffs' Counsel; |
| Exhibit J | <i>The Roderick & Solange MacArthur Justice Center, et al. v. Mississippi Department of Corrections</i> , Chancery Court of Hinds County, Case No. 25CH1:14-cv-000261, Plaintiffs' Reply in Opposition to Defendants' Counterclaim, Doc. 11; |
| Exhibit K | Tracy Connor, <i>Mississippi Death Row Inmate Michelle Byrom Challenges Drugs</i> , NBC News (Mar. 28, 2014); |
| Exhibit L | <i>Michelle Byrom, et al. v. Christopher Epps, et al.</i> , Chancery Court of Hinds County, Civil Action No. 25CH1:14-cv-424, Subpoenas to and Returns from Drug Suppliers; |

- Exhibit M *Missouri Dept. of Corr. v. Richard Jordan, et al.*, W.D. Mo., No. 2:16-MC-9005, Suggestions in Support of Motion to Quash Non-Party Subpoena, Doc. 3;
- Exhibit N *Georgia Dept. of Corr. v. Richard Jordan, et al.*, N.D. Ga., No. 1:16-cv-02582-RWS-JCF, Georgia Department of Corrections' Motion to Quash, Memorandum of Law in Support, and Objections to Specific Requests, Doc. 1;
- Exhibit O *In re: Virginia Department of Corrections*, E.D. Va., No. 3:17-MC-00002, Memorandum in Support of Motion to Quash, Doc. 2;
- Exhibit P Declaration of M7;
- Exhibit Q *McGehee v. Hutchinson*, E. Dist. Ark, No. 4:17-cv-179-KGB, Brief in Support of Motion for Leave to File *Amicus* Brief, Doc. 43;
- Exhibit R Declaration of J. Lawrence Cunningham;
- Exhibit S *Georgia Dept. of Corr. v. Richard Jordan, et al.*, N.D. Ga., No. 1:16-cv-02582-RWS-JCF, Order Granting Motion to Quash, Doc. 15;
- Exhibit T *Georgia Dept. of Corr. v. Richard Jordan, et al.*, N.D. Ga., No. 1:16-cv-02582-RWS-JCF, Order Overruling Plaintiffs' Objections to Order Granting Motion to Quash, Doc. 18;
- Exhibit U *In re: Richard Jordan et al.*, 11th Cir., Appeal No. 17-10738-F, Order denying Petitioners' Corrected Petition for Mandamus

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully request that the Court GRANT their Motion for Protective Order.

Respectfully submitted, this the 14th day of August, 2017.

JIM HOOD
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By: s/Wilson Minor
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CERTIFICATE OF SERVICE

This is to certify that I, Wilson Minor, Special Assistant Attorney General for the State of Mississippi, have electronically filed the foregoing document with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

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This the 14th day of August, 2017.

s/Wilson Minor
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